

19. Michael Sussman, ANC Commissioner for Single Member District Advisory Neighborhood Commission 2B-07, appeared at the public hearing in support of the application. Mr. Sussman testified that he was the maker of the motion for the ANC to adopt the position to oppose the application as indicated by the ANC letter dated April 11, 1983. No representative of the application was present at the ANC meeting. Subsequent to the Advisory Neighborhood Commission meeting on the subject application, the applicant contacted the Advisory Neighborhood Commission and was referred to Mr. Sussman. The applicant met with Mr. Sussman and presented its proposal for the continuation of the parking lot. Mr. Sussman testified that the lot is recessed, well-landscaped and maintained, and safe. In addition, the lot is used for neighborhood resident parking on weekends. Mr. Sussman stated that he, as an individual Single Member District Commissioner, had no objection to the continuation of the parking lot for two years. He remained opposed to a five year extension of the facility.

CONCLUSIONS OF LAW AND OPINION:

Based on the record, the Board concludes that the applicant is seeking a special exception, the granting of which requires proof that the applicant has met the requirements of Paragraph 3104.44 of the Zoning Regulations. The Board concludes that the applicant has substantially complied with the requirements of Paragraph 3104.44 of the Zoning Regulations.

Based on the applicant's testimony and the report of the D.C. DOT, the Board concludes that the lot is in compliance with the conditions imposed in its prior Order and Article 74. The Board further concludes that because of its use, size, and location, the continued use of the parking lot will not create dangerous or other objectionable traffic conditions and will not adversely affect the present character and future development of the neighborhood. There are no commercial advertising signs located on the lot. The lot is reasonably necessary and convenient to the use that it serves, and is used for resident parking on weekends.

The Board notes the decision of the D.C. Court of Appeals in First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment, 432 A.2d 695 (D.C., 1981). In that case, the Court ruled that in order to deny an application for a continuance of a parking lot, "opponents should introduce evidence of (1) a change of conditions ... and (2) other considerations materially affecting the merits of the subject matter..." In this case, there is no evidence of a change which would warrant denial of the continuation of the parking lot.

The Board further concludes that the subject parking lot will be in harmony with the general purpose and intent of the Zoning Regulations and that it will not adversely affect the use of the neighboring property in accordance with said Zoning Regulations. The Board concludes that it has accorded to the ANC the "great weight" to which is is entitled.

Accordingly, it is ORDERED that this application be GRANTED SUBJECT to the following CONDITIONS:

- A. Approval shall be for a period of THREE years from the date of expiration of the previous certificate of occupancy, namely from March 23, 1983.
- B. All areas devoted to driveways, access lanes, and parking areas shall be maintained with a paving of material forming an all-weather impervious surface
- C. Bumper stops shall be erected and maintained for the protection of all adjoining buildings.
- D. No vehicle or any part thereof shall be permitted to project over any lot or building line or on or over the public space.
- E. All parts of the lot shall be kept free of refuse or debris and shall be paved or landscaped. Landscaping shall be maintained in a healthy growing condition and in a neat and orderly appearance.
- F. No other use shall be conducted from or upon the premises and no structure other than an attendant's shelter shall be erected or used upon the premises unless such use or structure is otherwise permitted in the zoning district in which the parking lot is located.
- G. Any lighting used to illuminate the parking lot or its accessory building shall be so arranged that all direct rays of such lighting are confined to the surface of the parking lot.

VOTE: 3-0 (Walter B. Lewis, Carrie Thornhill and William F. McIntosh to GRANT; Douglas J. Patton and Charles R. Norris not voting, not having heard the case).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
STEVEN E. SHER  
Executive Director

FINAL DATE OF ORDER: \_\_\_\_\_

JUL 28 1983

UNDER SUB-SECTION 8204.3 OF THE ZONING REGULATIONS, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

THIS ORDER OF THE BOARD IS VALID FOR A PERIOD OF SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS ORDER, UNLESS WITHIN SUCH PERIOD AN APPLICATION FOR A BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY IS FILED WITH THE DEPARTMENT OF LICENSES, INVESTIGATIONS AND INSPECTIONS.

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